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20 Mass, Rm. A3042, 425 I Street, N.W.
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U.S. Citizenship
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Services

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FILE: [Redacted] Office: CALIFORNIA SERVICE CENTER Date: **JUL 08 2005**

IN RE: Applicant: [Redacted]

APPLICATION: Application for Status as a Temporary Resident pursuant to Section 210 of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1160

ON BEHALF OF APPLICANT: SELF-REPRESENTED

INSTRUCTIONS:
This is the decision of the Administrative Appeals Office in your case. The file has been returned to the service center that processed your case. If your appeal was sustained, or if your case was remanded for further action, you will be contacted. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application for temporary resident status as a special agricultural worker was denied by the Director, Western Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application because the applicant failed to establish the performance of at least 90 man-days of qualifying agricultural employment during the eligibility period. This decision was based on adverse information acquired by the Service regarding the applicant's claim of employment for [REDACTED]

On appeal, the applicant stated that he has been in the United States since 1981.

In order to be eligible for temporary resident status as a special agricultural worker, an alien must have engaged in qualifying agricultural employment for at least 90 man-days during the twelve-month period ending May 1, 1986, and must be otherwise admissible under section 210(c) of the Act and not ineligible under 8 C.F.R. 210.3(d). 8 C.F.R. 210.3(a). An applicant has the burden of proving the above by a preponderance of the evidence. 8 C.F.R. 210.3(b).

On the application, Form I-700, the applicant claimed to have performed 140 man-days of agricultural employment from May 1985 to May 1986 for foreman [REDACTED] at various farms in Maricopa County, Arizona.

In support of the claim, the applicant submitted a Form I-705 affidavit and an employment verification letter, both allegedly signed by foreman [REDACTED]

In attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. The Service attempted to contact [REDACTED] at the address he listed on a number of Form I-705 affidavits. This address belonged to [REDACTED] Farms. [REDACTED] advised the Service that [REDACTED] had been employed on his farm as a full-time foreman beginning in March or April of 1984 until the time of his termination in May of 1988. As such, [REDACTED] stated that [REDACTED] had no time to pursue other employment outside of his full-time job at Woolf Farms, contrary to [REDACTED] assertions that he was employed at other farms during the qualifying period. [REDACTED] also stated that workers who had worked at his farm during the qualifying period, including those workers who were under the supervision of foreman [REDACTED] approached him [REDACTED] for evidence of such employment. He further indicated that, for almost 25 years, he had kept extensive payroll records of individuals who worked on his farm.

In his letter [REDACTED] informed the Service that [REDACTED] resided on his property, and that when [REDACTED] trailer was cleaned [REDACTED] found approximately 50-75 signed, dated, and notarized verification letters with the space designated for the applicant's name left blank. [REDACTED] also stated that it was common knowledge in the area that these letters were for sale.

On August 2, 1989 [REDACTED] was convicted of creating and supplying false writings and documents to be used in applying for temporary residence under the special agricultural worker program, in violation of 8 USC 1160(b)(7)(A)(ii). As part of a plea agreement [REDACTED] admitted in a signed sworn declaration that he had created and supplied false immigration documents for monetary gain to individuals he knew he had not employed, including signed and notarized letters and Form I-705 affidavits.

On April 26, 1991, the applicant was advised in writing of the adverse information obtained by the Service, and of the Service's intent to deny the application. The applicant was granted thirty days to respond. In response, the applicant submitted a letter reaffirming his claimed employment for [REDACTED] stating that he was unable to locate [REDACTED] and therefore had no additional proof of his employment.

The director concluded the applicant had failed to overcome the derogatory information, and denied the application. On appeal, applicant stated that he has been in the United States since 1981 and listed his most recent employers. The applicant did not address his purported employment from [REDACTED]

The inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility, and amenability to verification. 8 C.F.R. 210.3(b)(1). Evidence submitted by an applicant will have its sufficiency judged according to its probative value and credibility. 8 C.F.R. 210.3(b)(2). Personal testimony by an applicant which is not corroborated, in whole or in part, by other credible evidence (including testimony by persons other than the applicant) will not serve to meet an applicant's burden of proof. 8 C.F.R. 210.3(b)(3).

There is no mandatory type of documentation required with respect to the applicant's burden of proof; however, the documentation must be credible. All documents submitted must have an appearance of reliability, i.e., if the documents appear to have been forged, or otherwise deceitfully created or obtained, the documents are not credible. United Farm Workers (AFL-CIO) v. INS, Civil No. S-87-1064-JFM (E.D. Cal.)

It is noted that, according to a November 22, 1989 telephone interview with [REDACTED] had been a farm labor contractor for Tanita Farms, but left that employment before the qualifying period. The applicant has not provided any documentation from Tanita Farms which would indicate that [REDACTED] did in fact work there during the qualifying period.

The applicant has not rebutted the adverse information by providing evidence from [REDACTED] or any farmer from one of the "various farms" indicated on the employment documents which would suggest the applicant did, in fact, work as claimed at "various farms". Based on the information acquired by the Service, it is concluded that [REDACTED] did not work at any farm other than [REDACTED] during the period in question. Therefore, the applicant could not have worked for [REDACTED] at "various farms" as claimed.

Furthermore, [REDACTED] has stated that his employees, including those who were supervised by [REDACTED] at [REDACTED], came to him for documentation of their employment. The applicant has not provided any documents from [REDACTED] although [REDACTED] stated he had extensive records of his employees. In the absence of such documentation, it is further concluded the applicant did not work at [REDACTED]

The applicant has failed to establish credibly the performance of at least 90 man-days of qualifying agricultural employment during the twelve-month statutory period ending May 1, 1986. Consequently, the applicant is ineligible for adjustment to temporary resident status as a special agricultural worker.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.